

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

TROY MCRAE,

Plaintiff,

9:17-cv-00146 (BKS/CFH)

v.

BRIAN FISCHER, Commissioner, et al.,

Defendants.

APPEARANCES:

Troy McRae
A-046-109-695
Buffalo Federal Detention Facility
4250 Federal Drive
Batavia, NY 14020
Plaintiff, pro se

Aimee M. Cowan, Esq.
Hon. Barbara Underwood
Office of New York State Attorney General
615 Erie Boulevard West, Suite 102
Syracuse, NY 13204
Attorney for Defendants

Hon. Brenda K. Sannes, United States District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff Troy McRae, a former New York State inmate, commenced this civil rights action asserting claims under 42 U.S.C. § 1983 arising out of his incarceration. (Dkt. No. 1). On September 4, 2017, Defendants filed a motion to dismiss under Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief may be granted. (Dkt. No. 10). Plaintiff filed a response on September 20, 2017 (Dkt. No. 14), and Defendants filed a reply on October 10, 2017 (Dkt. No. 15). This matter was referred to United States Magistrate Judge Christian F. Hummel

who, on June 6, 2018, issued a Report-Recommendation and Order recommending that Defendants' motion to dismiss be granted and that Plaintiff's amended complaint be dismissed with prejudice. (Dkt. No. 17). Magistrate Judge Hummel advised the parties that, under 28 U.S.C. § 636(b)(1), they had fourteen days within which to file written objections to the report, and that the failure to object to the report within fourteen days would preclude appellate review. (Dkt. No. 17, at 17). No objections to the Report-Recommendation have been filed.

As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts it in its entirety.

For these reasons, it is

ORDERED that the Report-Recommendation (Dkt. No. 17) is **ADOPTED** in its entirety; and it is further

ORDERED that Defendants' motion to dismiss (Dkt. No. 10) is **GRANTED** and that Plaintiff's amended complaint is **DISMISSED** with prejudice; and it is further

ORDERED that the Clerk serve a copy of this Order upon the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: July 16, 2018
Syracuse, New York


Brenda K. Sannes
Brenda K. Sannes
U.S. District Judge